

REMARKS

Claims 1-9 are pending in this application, of which claim 1 is independent. In this Amendment, claims 1-5, 7, and 9 have been amended to clarify the claimed subject matter. Care has been exercised to avoid the introduction of new matter.

Information Disclosure Statement

Applicants note that the Information Disclosure Statement filed January 24, 2005 has been acknowledged. A copy of the PTO-1449 form provided by the Examiner is attached to this Amendment. Applicants believe that all the listed references were considered by the Examiner, but it is unclear for Applicants as to whether the Examiner's initial was given to the references other than WO 01/41356 on the PTO-1449. Applicants, therefore, respectfully request the Examiner to confirm that all the references were considered in order to clarify the record.

In addition, another Information Disclosure Statement was filed October 29, 2008. Applicants respectfully request the Examiner to acknowledge receipt of the IDS and provide a copy of the PTO-1449 form appropriately initialed indicating consideration of the cited references.

Claim Rejections—35 U.S.C. § 112

Claims 1-7 and 9 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants have amended the claims except the limitations discussed below.

Claim 5

Because claim 5 recites the limitation “one additional item of the history information” in lines 1-2, there is antecedent bases for the limitations “the one additional item of the history information” in line 6 and “said received one additional item of the history information” in lines 11-12 identified by the Examiner.

The limitation “the copied history information” refers to the limitation “copies a part or the whole of the history information stored in the determined latest region into the determined earliest region....”

Claim 6

The limitation “the constant procedure” in line 4 refers to the limitation “a constant procedure” in lines 1-2 of claim 1.

Applicants believe that the amendments to the claims and the above discussions are fully responsive to the Examiner’s concerns. Withdrawal of the rejection of the claims under 35 U.S.C. § 112, second paragraph is, therefore, respectfully solicited.

Claim Rejections—35 U.S.C. § 103

Claims 1-9 have been rejected under 35 U.S.C. § 103 as being unpatentable over Miyazaki et al. (U.S. Patent No. 7,305,558, hereinafter “Miyazaki”) in view of Koseki et al. (U.S. Patent No. 6,732,124, hereinafter “Koseki”) and Steiner et al. (U.S. Patent No. 6,023,710, hereinafter “Steiner”).

With respect to independent claim 1, the Examiner admitted that Miyazaki does not teach searching a plurality of regions in said log storage portion in a predetermined order, and storing a new entry in the predetermined earliest region. However, the Examiner asserted that Koseki and

Steiner teaches the missing features of Miyazaki to arrive at the claimed subject matter.

Applicants respectfully traverse this rejection because the Examiner's reason to justify the combination of the references is not reasonable.

A patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. Although common sense directs one to look with care at a patent application that claims as innovation the combination of two known devices according to their established functions, it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does. *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007).

On this record, the Examiner failed to identify a reason that would have prompted a person of ordinary skill in this art to modify the device of Miyazaki based on the teachings of Koseki and Steiner to arrive at the claimed subject matter because there is no factual basis to support the Examiner's justification of combining the references.

In the Office Action on page 6, the Examiner, referring to column 17, lines 15-18 of Koseki, asserted that the reference teaches searching a plurality of regions in said log storage portion in a predetermined order. The Examiner's cited portion describes as follows: "the file system is recovered by: (1) searching the entire log volume, with reference to the sequence number attached to each log record, (2) identifying the oldest log record, and (3) playing all the recorded updates from the oldest one."

Koseki describes restoring file systems based on transaction logs. The above cited portion describes searching an entire log volume with reference to the sequence number attached to each log record in order to obtain all log records from the oldest log record. It is thus apparent

that Koseki does not teach finding the oldest log record “in order to determine the earliest entry of the load and reduce the processing time of writing new load entry” (see the forth full paragraph on page 6 of the Office Action). Accordingly, it would NOT “have been obvious for one of ordinary skill in the art at the time of the invention was made to include the searching and storing technique as taught by Koseki.

Based upon the foregoing, Applicants submit that the Examiner has not established a *prima facie* basis to deny patentability to the claimed subject matter at least because the applied combination of Miyazaki, Koseki, and Steiner are not proper under 35 U.S.C. § 103(a). Applicants, therefore, submit that the imposed rejection of claims 1-9 under 35 U.S.C. §103 for obviousness predicated upon Miyazaki, Koseki, and Steiner is not viable and, hence, respectfully solicit withdrawal thereof.

Conclusion

In view of the above remarks, Applicants submit that this application should be allowed and the case passed to issue. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper,

Application No.: 10/522,176

including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Tomoki Tanida

Registration No. 60,453

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 SAB:TT
Facsimile: 202.756.8087
Date: January 7, 2009

**Please recognize our Customer No. 20277
as our correspondence address.**

